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*Kevin Harrington*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ON DEMAND DIRECT RESPONSE, LLC  
DISTRICT OF NEVADA AND ON  
DEMAND DIRECT RESPONSE III, LLC,

Plaintiffs,

vs.

SHANA LEE MCCART-POLLAK D/B/A  
LOL BUDDIES ENTERPRISES

Defendant.

CASE NO. 2:15-cv-1576-MMD-NJK

**AMENDED STIPULATED  
CONFIDENTIALITY AGREEMENT  
AND PROTECTIVE ORDER**

ALL RELATED ACTIONS

Third-Party Defendant Kevin Harrington ("Harrington"), by and through his counsel, the law firm of Dickinson Wright PLLC, and Third-Party Plaintiff Shana Lee McCart-Pollak ("Shana"), by and through her counsel, the firm of Parry & Pfau, stipulate that discourse and discovery activity in the above-captioned action (the "Action") are likely to involve the production of confidential, proprietary, or private information for which special protection from public disclosure and use for any purpose other than prosecuting this litigation would be warranted. Accordingly, the Parties stipulate to the following Stipulated Confidentiality and Protective Order ("Protective Order"). The Parties hereby STIPULATE as follows:

1           1.       Any party or non-party may designate as confidential (by stamping the relevant  
2 page with the word "**Confidential**" or as otherwise set forth herein) any document or response to  
3 discovery which that party or non-party considers in good faith to contain information involving  
4 confidential personal or business information, subject to protection under the Federal Rules of  
5 Civil Procedure or Nevada Law (hereinafter referred to as "**Confidential Information**"). Where  
6 a document or response consists of more than one page, the first page and each page of which  
7 confidential information appears shall be so designated.

8           2.       Any party may designate as confidential-attorney eyes only (by stamping the  
9 relevant page with the word "**Attorney's Eyes Only**" or as otherwise set forth herein) any  
10 document or response to discovery which contains sensitive, highly confidential, non-public  
11 information, consisting of trade secrets, financial records, or other highly confidential documents  
12 the disclosure of which to the Receiving Parties or non-parties (other than the Designating Party)  
13 would be likely to cause competitive or business injury to the Designating Party (other than injury  
14 to the Designating Party's position in this Action) and/or compromise the security, protection  
15 and/or safety of the Designating Party's personal or business interests (herein after referred to as  
16 "**Attorney's Eyes Only Information**"). Where a document or response consists of more than one  
17 page, the first page and each page on which confidential information appears shall be designated.

18           3.       A party or non-party may designate information disclosed during deposition or in  
19 response to a written discovery as **Confidential** or **Attorney's Eyes Only** by so indicating in said  
20 response or on the record at the deposition and requesting the preparation of a separate transcript  
21 of such material. Additionally a party or non-party may designate in writing, within twenty (20)  
22 days after the receipt of said responses or of the deposition transcript for which the designation is  
23 proposed, that specific pages of the transcript and/or specific responses be treated as **Confidential**  
24 or **Attorney's Eyes Only** information. Any other party may object to such proposal, in writing or  
25 on the record, and upon such objection, the parties shall follow the procedure set forth in  
26 paragraphs 8 and 9 below. After any designation made according to the procedure set forth in this  
27 paragraph, the designated documents or information shall be treated according to the designation  
28 until the matter is resolved according to the procedures described in paragraphs 8 and 9 below, and

1 counsel for all parties shall be responsible for marking all previously unmarked copies of the  
2 designated materials in their possession or control with the specified designation.

3 4. All Confidential Information and Attorney's Eyes Only Information produced or  
4 exchanged in the course of this case (other than information that is publicly available) shall only  
5 be used by the party or parties to whom the information is produced solely for the purpose of this  
6 case, unless the party or non-party producing the Confidential Information or Attorney's Eyes  
7 Only Information agrees otherwise.

8 5. Except with the prior written consent of the party or non-party who produced the  
9 Confidential Information, or upon prior order of this Court obtained upon notice to counsel for the  
10 party or non-party who produced the Confidential Information, Confidential Information shall not  
11 be disclosed to any person other than:

- 12 a. Counsel for the respective parties to this litigation, including co-counsel  
13 retained in this litigation;
- 14 b. Employees of such counsel
- 15 c. The parties, including any officer or employee of party, to the extent  
16 deemed necessary by counsel for the prosecution or defense of this  
17 litigation;
- 18 d. Consultants or expert witnesses retained for the prosecution or defense of  
19 this litigation, provided that each such person shall execute a copy of the  
20 Certification annexed to this Order as Exhibit "A" (which shall be retained  
21 by counsel to the party so disclosing the Confidential Information and made  
22 available for inspection by opposing counsel during the pendency or after  
23 the termination of the action only upon good cause shown and upon order  
24 of the Court) before being shown or given any Confidential Information;
- 25 e. Any authors or recipients of the Confidential Information;
- 26 f. The Court, Court personnel, and court reporters; and
- 27 g. Witnesses (other than persons described in paragraph 4(e)). A witness shall  
28 sign the Certification before being shown any Confidential Information.

1 Confidential Information may be disclosed to a witness who will not sign  
2 the Certification only in deposition at which the party who designated the  
3 Confidential Information is represented or has been given notice that  
4 Confidential Information shall be designated "Confidential" pursuant to  
5 paragraph 2 above. Witnesses shown Confidential Information shall not be  
6 allowed to retain copies.

7 6. Except with prior written consent of the party or non-party who produced the  
8 Attorney's Eyes Only Information, or upon prior order of this Court obtained upon notice to  
9 counsel for the party or non-party who produced the Attorney's Eyes Only Information, Attorney's  
10 Eyes Only Information shall not be disclosed to any person other than:

- 11 a. Counsel for the parties to this litigation;
- 12 b. Employees of such counsel;
- 13 c. Consultants or expert witnesses retained for the defense of this litigation,  
14 provided that each such person shall execute a copy of the Certification  
15 annexed to this Order as Exhibit "A" (which shall be retained by counsel to  
16 the party so disclosing the Attorney's Eyes Only Information and made  
17 available for inspection by opposing counsel during the pendency or after  
18 the termination of the action only upon good cause shown and upon order  
19 of the Court) before being shown or given any Attorney's Eyes Only  
20 Information;
- 21 d. The Court, Court personnel, and court reporters.

22 7. Any persons receiving Confidential Information and/or Attorney's Eyes Only  
23 Information shall not reveal or discuss such information to or with any person who is not entitled  
24 to receive such information, except as set forth herein.

25 ~~8. Unless otherwise permitted by statute, rule or prior court order, papers filed with~~

See order at \_\_\_\_\_ containing Confidential Information or Attorney's Eyes Only Information shall be filed  
Docket No. 358.

~~\_\_\_\_\_ Court under seal and accompanied by a contemporaneous motion for leave to file those~~  
28 ~~documents under seal in accordance with Local Rule IA 10-5.~~

1           9.     A party may designate as **Confidential** or **Attorney's Eyes Only** documents or  
2 discovery materials produced by a non-party by providing written notice to all parties of the  
3 relevant document numbers or other identification within thirty (30) days after receiving such  
4 documents or discovery materials. A document may lose its confidential status if it is made public  
5 by the party that marked it as **Confidential** or **Attorney's Eyes Only**.

6           10.    If a party contends that any material is not entitled to confidential treatment, such  
7 party may at any time give written notice to the party or non-party who designated the material as  
8 **Confidential** or **Attorney's Eyes Only**. The party or non-party who designated the material as  
9 **Confidential** or **Attorney's Eyes Only** shall have twenty-five (25) days from the receipt of such  
10 written notice to apply to the Court for an order designating the material as **Confidential** or  
11 **Attorney's Eyes Only**. The party or non-party seeking the order has the burden of establishing  
12 that the document or information is entitled to protection.

13           11.    Notwithstanding any challenge to the designation of material as Confidential  
14 Information or Attorney's Eyes Only Information, all documents or information shall be treated as  
15 such and shall be subject to the provision hereof unless and until one of the following occurs:

- 16               a.     The party or non-party who claims that the material is Confidential  
17                       Information or Attorney's Eyes Only Information withdraws such  
18                       designation in writing; or  
19               b.     The party or non-party who claims that the material is Confidential  
20                       Information or Attorney's Eyes Only Information fails to apply to the Court  
21                       for an order designating the material confidential within the time period  
22                       specified above after receipt of a written challenge to such designation; or  
23               c.     The Court rules the material is not confidential.

24           12.    All provisions of this Order restricting communication or use of Confidential  
25 Information and/or Attorney's Eyes Only Information shall continue to be binding after the  
26 conclusion of this action, unless otherwise agreed or ordered. Upon conclusion of the litigation, a  
27 party in the possession of Confidential Information and/ or Attorney's Eyes Only Information,  
28 other than that which is contained in a pleading, correspondence, and deposition transcripts, shall

1 either (a) return such documents or information no later than thirty (30) days after conclusion of  
2 this action to counsel for the party or non-party who provided such information, or (b) destroy  
3 such documents and information within the time period upon consent of the party who provided  
4 the documents and information and certify in writing within thirty (30) days that the documents  
5 and information have been destroyed.

6 13. The terms of this Order do not preclude, limit, restrict, or otherwise apply to the use  
7 of documents or information at trial, except as to documents or information produced by a non-  
8 party. In the event a party seeks to use confidential information or documents produced by a non-  
9 party at trial, the party shall use his or her best efforts to secure the written consent from the non-  
10 party as provided under Paragraphs 5 and 6, above; and such consent shall not be withheld so long  
11 as adequate safeguards for the non-party's privacy concerns are in place including, for example,  
12 the redaction of sensitive and/or confidential information from the documents.

13 14. Nothing herein shall be deemed to waive any applicable privilege or work product  
14 protection, or to affect the ability of a party to seek relief for an inadvertent disclosure of material  
15 protected by privilege or work product protection.

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1           15. Any witness or other person, firm or entity from which discovery is sought may be  
2 informed of and may obtain the protection of this Order by written notice to the parties' respective  
3 counsel or by oral advice at the time of any deposition or similar proceeding.

4  
5 DATED this 25<sup>th</sup> day of July 2018.

DATED this 25<sup>th</sup> day of July 2018.

6 DICKINSON WRIGHT PLLC

PARRY & PFAU

7  
8 /s/ Michael N. Feder  
9 MICHAEL N. FEDER  
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11 8363 West Sunset Road, Suite 200  
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Tel: (702) 879-9555  
Attorneys for Shana Lee McCart-Pollak

14 IT IS SO ORDERED

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17 UNITED STATES MAGISTRATE JUDGE

18 DATED: July 27, 2018  
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**EXHIBIT A**  
**CERTIFICATION**

I hereby certify my understanding that Confidential Information and/or Confidential-Attorney's Eyes Only Information is being provided to me pursuant to the terms and restrictions of the Protective Order dated \_\_\_\_\_, In *On Demand Direct Response, LLC et al v. McCart-Pollak*, Case No. 2:15-cv-01576-MMD-NJK. I have been given a copy of that Order and read it. I agree to be bound by the Order. I will not reveal the Confidential Information and/or Attorney's Eyes Only Information to anyone, except as allowed by the Order. I will maintain all such Confidential Information and / or Attorney's Eyes Only Information (including copies, notes, or other transcriptions made therefrom) in a secure manner to prevent unauthorized access to it. No later than thirty (30) days after the conclusion of this action, I will return the Confidential Information and/or Attorney's Eyes Only Information (including copies, notes or other transcriptions made therefrom) to the counsel who provided me with the Confidential Information and/ or Attorney's Eyes Only Information.

I hereby consent to the jurisdiction of the United States District Court of Nevada for the purpose of enforcing the Protective Order.

DATED: \_\_\_\_\_

BY: \_\_\_\_\_